IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 6283 of 2007(W)

OS.299/2001 of MUNSIFF COURT, VAIKOM

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PETITIONERS:

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1. KURIAKOSE @ KURIAKOSE, AGED 80 YEARS,
S/O.DEVASSIA, KUNNEPARAMBIL, MANNAR KARA,
KADUTHURUTHY VILLAGE, VAIKOM. - (EXPIRED)

2. MARY, AGED 54 YEARS,
D/O.DEVASSIA, KUZHIPARAMBIL,
CHEMMANATHU KARA, VAIKOM FROM KUNNEPARAMBIL,
MANNAR KARA, KADUTHURUTHY VILLAGE, VAIKOM.

ADDL.3. ANNAKUTTI KURIAKOSE, W/O. LATE KURIAKOSE,
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.4. MARY KURIAKOSE, D/O. KURIAKOSE,
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.5. K.K. SEBASTIAN, S/O. KURIAKOSE.
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.6. ELSAMMA KURIAKOSE, W/O. SHIBU JOSEPH,
MEENACHIL HOUSE, PALA, NEAR KOTTARAMUTTOM.

ADDL.7. SISILY KURIAKOSE, W/O. GEORGE, MANDAPPATHIL
THOTTAKOM P.O., VAIKOM.

ADDL.8. KURIAKOSE KURIAKOSE, S/O. KURIAKOSE.
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.9. K.K.ABRAHAM, S/O. KURIAKOSE.
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.10. K.K.THOMAS, S/O. KURIAKOSE.
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

ADDL.11. JOSEPH KURIAKOSE, S/O. KURIAKOSE,
KUNNEPARAMBIL, MANNAR, POOZHIKOL P.O.

IMPLEADED AS LEGAL REPRESENTATIVES OF DECEASED P1 IN WP(C) VIDE ORDER DATED 20.8.2007 IN IA 107211/07

BY ADV. SRI.FRANCIS JOSEPH KURISINKAL
SRI.REJI JOSEPH

RESPONDENTS:
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1. ISBA UMMA, AGED 66 YEARS,
MUTTOOR HOUSE, MANNAR KARA, KADUTHURUTHY VILLAGE, VAIKOM, POOZHIKOL P.O.

2. BINDHU NAIR, AGED 45 YEARS,
VYJAYATHI HOUSE, CHERTHALA.

3. M.S.ISMAIL, S/O.SAIDMOHAMMED,
ALAPUZHA TOWN (DIED).

4. LAILA KUNJUMOHAMMED, AGED 44 YEARS,
W/O.KUNJUMOHAMMED, EDAMATTATHIL, MEVELLOOR KARA, VELLOOR VILLAGE, VAIKOM.

5. MYMOON BEEVI, AGED 44 YEARS,
APPAMEHIRA PARAMBIL, MANNAR KARA, KADUTHURUTHY VILLAGE.

6. HUMAYOON KABIR, 39 YEARS,
S/O.SAIDMUHAMMED, MUTTOOR HOUSE,
MANNAR KARA, KADUTHURUTHY VILLAGE.

7. RASIA, W/O.ISMAIL,
KADEEJA MANZIL, VELLAKINAR BHAGOM,
ALAPPUZHA.

8. SABEER, S/O.ISMAIL, DO. DO.

9. SIMI, D/O.ISMAIL, DO. DO.

BY ADV. SRI.M.A.ASIF

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioners' Exts.

Ext.P1` The true copy of the commission report dated 2.8.2006 along with the plan dated 18.7.2006.

Ext.P2 The true copy of the I.A.No.1398/2006

Ext.P3 The true copy of the application dated 5.1.2007 submitted by the petitioners/plaintiff before the Munsiff Court, Vaikom.

Ext.P4 The true copy of the order dated 23 January 2007 of the Munsiff Court, Vaikom.

Ext.P5 The true copy of the order dated 23 January 2007 in Exhibit P3 application of the Munsiff Court, Vaikom.

M.N.Krishnan, J.

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W.P(C).No.6283 of 2007

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Dated this the 14th day of September, 2007.

JUDGMENT

This Writ Petition is one to set aside Exts.P4 and P5 orders passed in O.S.No.299 of 2001 of the Munsiff's Court, Vaikom. The grievance of the writ petitioner is that the court did not permit him to examine the Commissioner in a petition filed to set aside the Commissioner's report as well as the court went wrong in dismissing the application for setting aside the Commissioner's report.

2. I had gone through the order. Without expressing anything on the merits I feel that it is sufficient, that the writ petitioner's right is preserved by permitting him to examine the Commissioner and adduce evidence in support of his contention that the Commissioner's report is wrong. Reserving that right, this Writ Petition is dismissed.

M.N.Krishnan,
Judge.

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